

ESTTA Tracking number: **ESTTA450058**

Filing date: **01/09/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	AutoZone Parts, Inc.
Granted to Date of previous extension	01/08/2012
Address	123 South Front Street Memphis, TN 38103 UNITED STATES
Attorney information	Kathryn Bina Alston & Bird LLP 1201 West Peachtree Street Atlanta, GA 30309 UNITED STATES kitty.bina@alston.com Phone:404-881-7000

Applicant Information

Application No	77566286	Publication date	07/12/2011
Opposition Filing Date	01/09/2012	Opposition Period Ends	01/08/2012
Applicant	Aldi Inc. 1200 North Kirk Road Batavia, IL 605101477 UNITED STATES		

Goods/Services Affected by Opposition

Class 004. All goods and services in the class are opposed, namely: Oil, namely, lubricating oil for machines, multi purpose oil in the nature of lubricating oil for machines; oil spray, namely, lubricating oil for machines
Class 006. Opposed goods and services in the class: Metal bins; door handles of stainless steel; metal handles for doors; door and window knob of metal with lock; metal safety locks; heavy duty metal padlocks; heavy duty metal twist ties; metal hose clamps; metal hose clips for holding water hoses in place; metal ladders; large metal tool boxes; metal key rings featuring LED lights for illumination; general purpose metal storage bins; magnetic storage set comprised of magnetic metal storage trays in different sizes; aluminum telescopic ladder; metal truing laths; metal utility hooks; metal tie downs featuring ratchet tightening device; mobile metal tool boxes; metal extension support rod for supporting plasterboard walls during installation
Class 007. Opposed goods and services in the class: Air-operated power tools, namely, chisels, drills, impact wrenches, ratchet wrenches; power tools, namely, angle grinders, belt grinders, belt sanders, bench grinders, hammer drills, rotary hammer drills, single handed angle grinder, routers, bits for power

drills; electric chain saws; circular saws; electric hand-held circular saws; electric circular saw blades; electric combi power tools, namely, electric drills that also function as hammer drills; air compressors; accessories for air compressors, namely, air compressor valves; diamond core drill bits for use with electric core drills; power drills; cordless electric drills; pneumatic hammer drills; grinding tools for grinding machines; dust extractor machines for use with power tools; electric generators; portable electric power generators; electric power tools, namely, chipping hammer; hole saws for electric drills; electric power tools, namely, hot air gun; jig saws; jig saw blades; electric metal cut off saw; microflame gas cutting torches; air compressors for paint sprayers; paint sprayers; electric planers; power drills; power-operated screwdrivers; power tools, namely, electric drills, angle grinders, saws; multi-purpose high pressure washer; power-operated ratchet wrenches; power-operated rivet guns; multi-purpose saws, namely, saw machines; power saw blades; lithium-ion cordless power-operated screwdrivers; power operated screwdrivers; suction plants, namely, air suction machines; table milling machines; electric tile cutter; cut-off wheels for power saws; cutting discs for power saws; percussion drill machines in the nature of hammer drills; percussion drill bits for power hammer drills; air compressors for use with paint rollers; welding apparatus, namely, electric welding machines and accessories attached thereto

Class 008.

Opposed goods and services in the class: Hex keys with grips featuring two component plastic ergonomically formed handle; hand tools, namely, mauls, hex keys, wrenches, bolt cutters, carpentry pull saws, clamps, files, rasps, planers, ratchet wrenches, stainless steel scrapers, screwdrivers, socket sets, wrenches, ball head wrenches; bench vises of case steel; metal bench vises; bits for hand drills; cutlery, namely, camping cutlery; cutting knives, hobby knives; chisels; hand-operated cutters, namely, metal sheet cutters; gear wrenches; gear ratchet wrenches; hand saws, namely, hack saws; hammers; chisels; hand-operated riveting tools; hand operated metal cutters; mitre saw and mitre-box saw; multi tool, namely, multi-function hand tools comprised of screwdriver, knives, can opener, file, pliers; multiple socket, namely, hand tool socket sets comprised of various sized sockets; hand tools, namely, nylon spring clamps; open-end wrenches; hand tools, namely, ring wrenches for use on screws; gas pipe pliers; sanitary pliers; pliers; electronic pliers, namely, hand tool pliers for use on electronic equipment; lock jaw pliers; plumbers pliers; pocket knives; hand tools, namely, quick ratcheting bar clamp; ratchet spanners; hand tools, namely, ratchet spring clamp; saws; screwdriver and bits for use with screwdrivers; long reach screwdrivers; set of screwdrivers and sets of pliers; sledge hammer; hand tools, namely, sockets featuring hex keys; hand tools, namely, sockets featuring hex bits; spanners; hand tools, namely, tap and die sets comprised of various sizes of taps and dies; t-handle hex keys and t-handled hexlobular keys; hobby tools, namely, pliers, knives; hand tool kit comprised of pliers, wrenches; set of pliers, screwdrivers, wrenches; mini hand tool set comprised of mini pliers; hand tools, namely, hexlobular keys; hand tools, namely, hex keys; wrenches featuring soft grip two component handle; heavy duty vises; wire stripper; vises; hand tools, namely, wrecking bars; hand tool clamp, namely, F-clamps and G-clamps

Class 009.

Opposed goods and services in the class: Battery tester; electrical switches, digital caliper for measuring; extension cords; protective work gloves, namely, cut proof gloves; radiator thermostat; electric professional soldering gun; voltage testers; welding masks; electric power cord reel; leather work gloves; work gloves; powerboards, namely, extension cords;

Class 012.

Opposed goods and services in the class: aluminum roll car in the nature of goods handling carts;

Class 016.

Opposed goods and services in the class: professional plastic organizer, namely, organizers featuring plastic storage compartments; personal organizers;

Class 017.

Opposed goods and services in the class: sealing rings set, namely, a set comprised of an assortment of various sized rubber O-rings; silicone-based sealants and adhesives; silicone-based sealants and adhesives in cartridge form;

Class 020.

Opposed goods and services in the class: Non-metal bins; non-metal lock boxes; accessory drawers; extending work stand in the nature of a work bench; garage shelving; aluminum ladder storage rack; ladder storage rack; large non-metal tool boxes; mobile non-metal tool boxes; plastic mobile tools storage compartments in the nature of tool boxes; accessories for non-metal storage cases in the nature of cabinets, namely, shelving; hobby storage case, namely, non-metal storage boxes for

storing tools for hobbies; storage system, namely, a storage set comprised of storage shelves and racks; plastic storage compartments in the nature of boxes; non-metal utility hooks; work benches; foldable work stands in the nature of a foldable work bench; work table featuring an integral backboard; non-metal work trestles for supporting tables; tabletop work benches

Class 021.

All goods and services in the class are opposed, namely: Wire brushes not being machine parts; plastic buckets; plastic boxes specially adapted for storing wood screws and machine screws; small parts stack that stack, namely, small plastic storage containers for household or domestic use

Class 022.

Opposed goods and services in the class: Cable ties and straps for fastening and securing objects such as bundles of wire together; grip test ties; ropes;


Class 027.

All goods and services in the class are opposed, namely: Rubber standing mat


Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2525758	Application Date	08/12/1999
Registration Date	01/01/2002	Foreign Priority Date	NONE
Word Mark	ZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2001/07/26 First Use In Commerce: 2001/07/26 RETAIL AUTOMOTIVE STORE SERVICES		


U.S. Registration No.	1550569	Application Date	09/14/1988
Registration Date	08/01/1989	Foreign Priority Date	NONE
Word Mark	AUTOZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1987/11/19 First Use In Commerce: 1987/11/19 RETAIL AUTO PARTS STORE SERVICES		

U.S. Registration No.	2721079	Application Date	07/09/2002
Registration Date	06/03/2003	Foreign Priority Date	NONE
Word Mark	AUTOZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 037. First use: First Use: 1987/00/00 First Use In Commerce: 1987/00/00 AUTOMOTIVE REPAIR SERVICES, NAMELY, TESTING, REPAIR, DIAGNOSIS AND INSTALLATION OF AUTOMOTIVE PARTS AND ACCESSORIES		

U.S. Registration No.	3278988	Application Date	10/25/2006
Registration Date	08/14/2007	Foreign Priority Date	NONE
Word Mark	AUTOZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2005/06/00 First Use In Commerce: 2005/06/00 Automotive fluids, namely, gas treatment, oil treatment, power steering fluid, antifreeze, and brake fluid Class 003. First use: First Use: 2004/12/00 First Use In Commerce: 2004/12/00 Windshield washing fluid, brake cleaner, carburetor cleaner, and engine degreaser Class 004. First use: First Use: 2004/12/00 First Use In Commerce: 2004/12/00 All purpose silicone spray-lubricant and motor oil Class 027. First use: First Use: 2004/07/00 First Use In Commerce: 2004/07/00 Floor mats for vehicles		


	Class 035. First use: First Use: 1987/11/19 First Use In Commerce: 1987/11/19 Retail store services featuring automobile parts and accessories
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U.S. Registration No.	3724931	Application Date	04/17/2009
Registration Date	12/15/2009	Foreign Priority Date	NONE
Word Mark	AUTOZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1996/08/30 First Use In Commerce: 1996/08/30 Retail automotive parts and accessories store services rendered to commercial customers; providing commercial information and advice regarding automotive parts and accessories to commercial customers; providing a searchable online database in the field of describing and pricing of automotive parts and accessories; online retail store services featuring automotive parts and accessories		

U.S. Registration No.	1501718	Application Date	11/20/1987
Registration Date	08/23/1988	Foreign Priority Date	NONE
Word Mark	AUTOZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1987/11/19 First Use In Commerce: 1987/11/19 RETAIL AUTO PARTS STORE SERVICES		


U.S. Registration No.	3123505	Application Date	08/12/2005
Registration Date	08/01/2006	Foreign Priority Date	NONE
Word Mark	AUTOZONE		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2003/10/00 First Use In Commerce: 2003/10/00 Retail automotive parts and accessories store services


U.S. Registration No.	3724930	Application Date	04/17/2009
Registration Date	12/15/2009	Foreign Priority Date	NONE
Word Mark	AUTOZONE		
Design Mark			
Description of Mark	The mark consists of the word mark "AutoZone" in combination with eight speed bars.		
Goods/Services	Class 035. First use: First Use: 1996/08/30 First Use In Commerce: 1996/08/30 Retail automotive parts and accessories store services rendered to commercial customers; providing commercial information and advice regarding automotive parts and accessories to commercial customers; providing a searchable online database in the field of describing and pricing of automotive parts and accessories; online retail store services featuring automotive parts and accessories		


U.S. Registration No.	1700101	Application Date	05/30/1991
Registration Date	07/14/1992	Foreign Priority Date	NONE
Word Mark	AUTOZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1990/12/01 First Use In Commerce: 1990/12/01 cleaning preparations for hands and automobiles Class 009. First use: First Use: 1988/12/01 First Use In Commerce: 1988/12/01 vehicle engine parts; namely, thermostats Class 012. First use: First Use: 1989/10/01 First Use In Commerce: 1989/10/01 [vehicle engine parts; namely, V-belts and V-ribbed belts]		

U.S. Registration No.	2225191	Application Date	06/20/1997
Registration Date	02/23/1999	Foreign Priority Date	NONE

Word Mark	AUTOZONE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1992/05/21 First Use In Commerce: 1992/05/21 windshield washing fluid

U.S. Registration No.	2397635	Application Date	09/08/1999
Registration Date	10/24/2000	Foreign Priority Date	NONE
Word Mark	AUTOZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1987/11/19 First Use In Commerce: 1987/11/19 RETAIL AUTOMOBILE PARTS AND ACCESSORIES STORE SERVICES		

U.S. Registration No.	3281590	Application Date	10/23/2006
Registration Date	08/21/2007	Foreign Priority Date	NONE
Word Mark	AUTOZONE		
Design Mark			
Description of Mark	The mark consists of the word AutoZone in Stylized letters.		
Goods/Services	<p>Class 001. First use: First Use: 2005/06/00 First Use In Commerce: 2005/06/00 Automotive fluids, namely, gas treatment, oil treatment, power steering fluid, antifreeze, and brake fluid</p> <p>Class 003. First use: First Use: 2004/12/00 First Use In Commerce: 2004/12/00 Windshield washing fluid, brake cleaner, carburetor cleaner, and engine degreaser</p> <p>Class 004. First use: First Use: 2004/12/00 First Use In Commerce: 2004/12/00 All purpose silicone spray-lubricant and motor oil</p> <p>Class 027. First use: First Use: 2004/07/00 First Use In Commerce: 2004/07/00 Floor mats for vehicles</p> <p>Class 035. First use: First Use: 1987/11/19 First Use In Commerce: 1987/11/19</p>		

	Retail automotive parts and accessories store services		
U.S. Registration No.	3281636	Application Date	10/25/2006
Registration Date	08/21/2007	Foreign Priority Date	NONE
Word Mark	AUTOZONE		
Design Mark			
Description of Mark	The colors black and white in the drawing represent outlining only and are not part of the mark.		
Goods/Services	<p>Class 001. First use: First Use: 2005/06/00 First Use In Commerce: 2005/06/00 Automotive fluids, namely, gas treatment, oil treatment, power steering fluid, antifreeze, and brake fluid</p> <p>Class 003. First use: First Use: 2004/12/00 First Use In Commerce: 2004/12/00 Windshield washing fluid, brake cleaner, carburetor cleaner, and engine degreaser</p> <p>Class 004. First use: First Use: 2004/12/00 First Use In Commerce: 2004/12/00 All purpose silicone spray-lubricant and motor oil</p> <p>Class 027. First use: First Use: 2004/07/00 First Use In Commerce: 2004/07/00 Floor mats for vehicles</p>		
U.S. Registration No.	2449353	Application Date	02/07/1996
Registration Date	05/08/2001	Foreign Priority Date	NONE
Word Mark	AUTOZONE.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2000/08/11 First Use In Commerce: 2000/08/11 on-line electronic services, namely, on-line ordering services in the field of automotive parts and accessories, and providing information regarding automotive repair and maintenance via a global computer network		
U.S. Registration No.	2527429	Application Date	05/03/2001
Registration Date	01/08/2002	Foreign Priority Date	NONE
Word Mark	GET IN THE ZONE		

Design Mark	GET IN THE ZONE
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2001/03/19 First Use In Commerce: 2001/03/19 RETAIL AUTO PARTS STORE SERVICES

U.S. Registration No.	2855756	Application Date	07/11/2003
Registration Date	06/22/2004	Foreign Priority Date	NONE
Word Mark	CHECKOUTZONE		
Design Mark	CHECKOUTZONE		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/03/00 First Use In Commerce: 2002/03/00 RETAIL AUTO PARTS STORE SERVICES		


U.S. Registration No.	3342387	Application Date	07/11/2003
Registration Date	11/27/2007	Foreign Priority Date	NONE
Word Mark	OILZONE		
Design Mark	OILZONE		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/03/00 First Use In Commerce: 2002/03/00 RETAIL AUTO PARTS STORE SERVICES		

U.S. Registration No.	2855758	Application Date	07/11/2003
Registration Date	06/22/2004	Foreign Priority Date	NONE
Word Mark	PARTSZONE		
Design Mark	<p style="text-align: center;">PARTSZONE</p>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/03/00 First Use In Commerce: 2002/03/00 RETAIL AUTO PARTS STORE SERVICES		

U.S. Registration No.	2855757	Application Date	07/11/2003
Registration Date	06/22/2004	Foreign Priority Date	NONE
Word Mark	BATTERYZONE		
Design Mark	<p style="text-align: center;">BATTERYZONE</p>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/03/00 First Use In Commerce: 2002/03/00 RETAIL AUTO PARTS STORE SERVICES		

U.S. Registration No.	2015967	Application Date	08/11/1993
Registration Date	11/12/1996	Foreign Priority Date	NONE
Word Mark	QUIET ZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 017. First use: First Use: 1996/01/18 First Use In Commerce: 1996/01/18 soundproofing materials for automotive vehicles		

U.S. Registration No.	3120352	Application Date	08/05/2005
Registration Date	07/25/2006	Foreign Priority	NONE

		Date	
Word Mark	TRUCKZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/03/00 First Use In Commerce: 2002/03/00 Retail auto and truck parts and accessories store services		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	AUTOZONE (Word Mark)		
Goods/Services	lubricating oils, metal and plastic storage bins and boxes, handles, locks, clamps, ladders, tool boxes, key rings, tie downs, air-operated power tools, chisels, drills, wrenches, grinders, sanders, saws, air compressors, drill bits, valves, electric power tools, generators, hammers, torches, hot air guns, saw blades, welding apparatus, hex keys, scrapers, screwdrivers, socket sets, vises, knives, chisels, cutters, riveting tools, multi-function hand tools, pliers, tap and die sets, hobby tools, tool sets, hex keys, wire strippers, F-clamps, battery testers, digital calipers, extension cords, work gloves, soldering guns, voltage testers, latex gloves, service carts, paint brushes, O-rings, sealants and adhesives, hoses, work benches, truck bed ladders, ladder racks, tool boxes, pads, wire brushes, buckets, ropes, and rubber standing mat		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ZONE (Word Mark)		
Goods/Services	lubricating oils, metal and plastic storage bins and boxes, handles, locks, clamps, ladders, tool boxes, key rings, tie downs, air-operated power tools, chisels, drills, wrenches, grinders, sanders, saws, air compressors, drill bits, valves, electric power tools, generators, hammers, torches, hot air guns, saw blades, welding apparatus, hex keys, scrapers, screwdrivers, socket sets, vises, knives, chisels, cutters, riveting tools, multi-function hand tools, pliers, tap and die sets, hobby tools, tool sets, hex keys, wire strippers, F-clamps, battery testers, digital calipers, extension cords, work gloves, soldering guns, voltage testers, latex gloves, service carts, paint brushes, O-rings, sealants and adhesives, hoses, work benches, truck bed ladders, ladder racks, tool boxes, pads, wire brushes, buckets, ropes, and rubber standing mat		


U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	AUTOZONE.COM (Word Mark)		
Goods/Services	lubricating oils, metal and plastic storage bins and boxes, handles, locks, clamps, ladders, tool boxes, key rings, tie downs, air-operated power tools, chisels, drills, wrenches, grinders, sanders, saws, air compressors, drill bits, valves, electric power tools, generators, hammers, torches, hot air guns, saw blades, welding apparatus, hex keys, scrapers, screwdrivers, socket sets, vises, knives, chisels, cutters, riveting tools, multi-function hand tools, pliers, tap and die sets, hobby tools, tool sets, hex keys, wire strippers, F-clamps, battery testers, digital calipers, extension cords, work gloves, soldering guns, voltage testers, latex gloves, service carts, paint brushes, O-rings, sealants and adhesives, hoses, work benches, truck bed ladders, ladder racks, tool boxes, pads, wire brushes, buckets, ropes, and rubber standing mat		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	GET IN THE ZONE (Word Mark)		
Goods/Services	lubricating oils, metal and plastic storage bins and boxes, handles, locks, clamps, ladders, tool boxes, key rings, tie downs, air-operated power tools, chisels, drills, wrenches, grinders, sanders, saws, air compressors, drill bits, valves, electric power tools, generators, hammers, torches, hot air guns, saw blades, welding apparatus, hex keys, scrapers, screwdrivers, socket sets, vises, knives, chisels, cutters, riveting tools, multi-function hand tools, pliers, tap and die sets, hobby tools, tool sets, hex keys, wire strippers, F-clamps, battery testers, digital calipers, extension cords, work gloves, soldering guns, voltage testers, latex gloves, service carts, paint brushes, O-rings, sealants and adhesives, hoses, work benches, truck bed ladders, ladder racks, tool boxes, pads, wire brushes, buckets, ropes, and rubber standing mat		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CHECKOUTZONE (Word Mark)		
Goods/Services	lubricating oils, metal and plastic storage bins and boxes, handles, locks, clamps, ladders, tool boxes, key rings, tie downs, air-operated power tools, chisels, drills, wrenches, grinders, sanders, saws, air compressors, drill bits, valves, electric power tools, generators, hammers, torches, hot air guns, saw blades, welding apparatus, hex keys, scrapers, screwdrivers, socket sets, vises, knives, chisels, cutters, riveting tools, multi-function hand tools, pliers, tap and die sets, hobby tools, tool sets, hex keys, wire strippers, F-clamps, battery testers, digital calipers, extension cords, work gloves, soldering guns, voltage testers, latex gloves, service carts, paint brushes, O-rings, sealants and adhesives, hoses, work benches, truck bed ladders, ladder racks, tool boxes, pads, wire brushes, buckets, ropes, and rubber standing mat		

U.S. Application/ Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
Word Mark	OILZONE (Word Mark)
Goods/Services	lubricating oils

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark			
Goods/Services	lubricating oils, metal and plastic storage bins and boxes, handles, locks, clamps, ladders, tool boxes, key rings, tie downs, air-operated power tools, chisels, drills, wrenches, grinders, sanders, saws, air compressors, drill bits, valves, electric power tools, generators, hammers, torches, hot air guns, saw blades, welding apparatus, hex keys, scrapers, screwdrivers, socket sets, vises, knives, chisels, cutters, riveting tools, multi-function hand tools, pliers, tap and die sets, hobby tools, tool sets, hex keys, wire strippers, F-clamps, battery testers, digital calipers, extension cords, work gloves, soldering guns, voltage testers, latex gloves, service carts, paint brushes, O-rings, sealants and adhesives, hoses, work benches, truck bed ladders, ladder racks, tool boxes, pads, wire brushes, buckets, ropes, and rubber standing mat		

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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kathryn Bina/
Name	Kathryn Bina
Date	01/09/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of U.S. Application Serial No. 77/566,286

Mark: WORKZONE & Design

AUTOZONE PARTS, INC.

Opposer,

vs.

ALDI, INC.

Applicant.

Opposition No.

NOTICE OF OPPOSITION

AutoZone Parts, Inc., a Nevada corporation, having its principal place of business at 123 S. Front Street, Memphis, Tennessee 38103, will be damaged by registration of Application Serial No. 77/566,286 (the “Application”) for certain goods in International Classes 4, 6, 7, 9, 12, 16, 17, 20, 21, 22, and 27, and hereby opposes such registration. The grounds for the opposition are as follows:

AutoZone’s Business and ZONE Marks

1. Opposer, together with its affiliates (collectively “AutoZone”), is the leading retailer of automotive parts and accessories in the United States, with more than 4,800 retail stores in the United States, Puerto Rico and Mexico. AutoZone also provides online retail sales through a website located at the domain name <autozone.com>.

2. In addition to selling a wide variety of automotive parts and accessories, AutoZone also sells numerous types of hand tools, power tools, storage bins, tool boxes, and other tools and tool accessories.

3. Since 1987, AutoZone has offered its goods and services under the mark AUTOZONE. In addition, since at least as early as 2002, AutoZone has offered its goods and services to the public under a family of marks that consist in whole or in part of the term “zone,” including the marks ZONE, GET IN THE ZONE, CHECKOUTZONE, OILZONE and PARTSZONE (collectively with the mark AUTOZONE, the “ZONE Marks”).

4. In recognition of AutoZone’s exclusive rights in its ZONE Marks, the U.S. Patent and Trademark Office has issued AutoZone more than twenty registrations for its ZONE Marks. A complete list of these registrations is set forth in Exhibit A hereto.

5. AutoZone’s registrations for its ZONE Marks are valid and subsisting in law, were duly and legally issued, constitute *prima facie* evidence of the validity of the marks registered, and constitute constructive notice of ownership of the marks by AutoZone in accordance with Sections 7(b) and 22 of the Trademark Act of 1946, 15 U.S.C. §§ 1057(b) and 1072.

6. Since at least 2003, AutoZone also has used a composite mark that consist of the word mark AUTOZONE preceded by a series of slanted, vertical rectangles of varying widths. The design element is AutoZone’s famous “Speedbar Mark.” AutoZone’s rights in its AUTOZONE composite marks are reflected in a number of federal registrations. See Exhibit A.

7. In addition, AutoZone uses the Speedbar Mark separate from its word mark including, for example, on AutoZone’s website. As a result of AutoZone’s long-term and consistent use of the Speedbar Mark, consumers associate the Speedbar Mark with AutoZone and its goods and services alone.

8. Since well prior to September 10, 2008, AutoZone has sold the following goods under the ZONE Marks and the Speedbar Mark: lubricating oils, metal and plastic storage bins

and boxes, handles, locks, clamps, ladders, tool boxes, key rings, tie downs, air-operated power tools, chisels, drills, wrenches, grinders, sanders, saws, air compressors, drill bits, valves, electric power tools, generators, hammers, torches, hot air guns, saw blades, welding apparatus, hex keys, scrapers, screwdrivers, socket sets, vises, knives, chisels, cutters, riveting tools, multi-function hand tools, pliers, tap and die sets, hobby tools, tool sets, hex keys, wire strippers, F-clamps, battery testers, digital calipers, extension cords, work gloves, soldering guns, voltage testers, latex gloves, service carts, paint brushes, O-rings, sealants and adhesives, hoses, work benches, truck bed ladders, ladder racks, tool boxes, pads, wire brushes, buckets, ropes, and rubber standing mat.

9. AutoZone has spent millions of dollars over the years promoting and marketing its goods and services under the ZONE Marks and the Speedbar Mark. As a result of these efforts, the ZONE Marks and Speedbar Mark are famous in the United States, and serve to identify AutoZone's goods, services and goodwill alone.

Applicant's WORKZONE Application

10. On or about September 10, 2008, Aldi, Inc. ("Applicant") filed an intent-to-use application to register the mark WORKZONE & Design for numerous and varied goods in nineteen International Classes.

11. The mark WORKZONE & Design consists of the word mark WORKZONE preceded by a series of slanted, vertical rectangles of varying widths.

12. Applicant's mark incorporates AutoZone's ZONE mark in its entirety, with "zone" in WORKZONE emphasized in a white font on a black background. There also is a significant similarity between the slanted rectangles used in the Applicant's mark and AutoZone's Speedbar Mark.

13. The Application includes a significant number of goods that are identical to or closely related to the goods AutoZone sells under its ZONE Marks and Speedbar Mark. A complete list of these goods is attached hereto as Exhibit B (hereinafter, the “Opposed Goods”).

14. Upon information and belief, Applicant intends to market and sell its goods to the same types of consumers as AutoZone, using the same or similar channels of marketing and trade.

15. Applicant’s mark, when used in connection with the Opposed Goods, is likely to mislead or deceive consumers into believing that Applicant’s services originate from AutoZone, that AutoZone and Applicant are associated or affiliated with one another, and/or that AutoZone sponsors or endorses Applicant or its services. Applicant’s registration for the Opposed Goods thus infringes AutoZone’s famous ZONE Marks.

16. Registration and use of the Applicant’s mark for the Opposed Goods is also likely to dilute the distinctive quality of AutoZone’s famous ZONE Marks and Speedbar Mark.

17. For the reasons stated above, AutoZone will be damaged by the registration of the WORKZONE & Design mark for the Opposed Goods.

WHEREFORE, AutoZone prays that Applicant’s Application be denied for the Opposed Goods, and that this Opposition be sustained in AutoZone’s favor.

Respectfully submitted this 9th day of January, 2012.

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CERTIFICATE OF ELECTRONIC FILING AND SERVICE



I hereby certify that this correspondence is being submitted to the Trademark Trial and Appeal Board via electronic means by filing with the Electronic Systems for Trademark Trial and Appeals on January 9, 2012. A true and correct copy was also mailed to the Applicant's attorney of record at the following recipients via U.S. Mail:





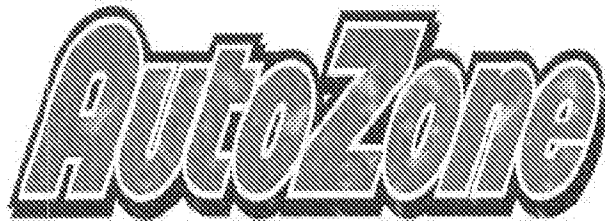
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Exhibit A

<u>Mark</u>	<u>Registration Number</u>	<u>Goods/Services</u>
ZONE	2,525,758	Retail automotive store services
AUTOZONE	1,550,569	Retail auto parts store services
AUTOZONE	2,721,079	Automotive repair services, namely, testing, repair, diagnosis and installation of automotive parts and accessories
AUTOZONE	3,278,988	Automotive fluids, namely gas treatment, oil treatment, power steering fluid, antifreeze, and brake fluid; windshield washing fluid, brake cleaner, carburetor cleaner, and engine degreaser; all purpose silicone spray-lubricant and motor oil; floor mats for vehicles; retail store services featuring automobile parts and accessories
AUTOZONE	3,724,931	Retail automotive parts and accessories store services rendered to commercial customers; providing commercial information and advice regarding automotive parts and accessories to commercial customers; providing a searchable online database in the field of describing and pricing of automotive parts and accessories; online retail store services featuring automotive parts and accessories.
AUTOZONE & Design 	1,501,718	Retail auto parts store services
AUTOZONE & Design 	3,123,505	Retail automotive parts and accessories store services.

<u>Mark</u>	<u>Registration Number</u>	<u>Goods/Services</u>
AUTOZONE & Design 	3,724,930	Retail automotive parts and accessories store services rendered to commercial customers; providing commercial information and advice regarding automotive parts and accessories to commercial customers; providing a searchable online database in the field of describing and pricing of automotive parts and accessories; online retail store services featuring automotive parts and accessories.
AUTOZONE & Design 	1,700,101	Cleaning preparations for hands and automobiles; vehicle engine parts; namely, thermostats.
AUTOZONE & Design 	2,225,191	Windshield washing fluid
AUTOZONE & Design 	2,397,635	Retail automobile parts and accessories store services
AUTOZONE & Design 	3,281,590	Automotive fluids, namely gas treatment, oil treatment, power steering fluid, antifreeze, and brake fluid; windshield washing fluid, brake cleaner, carburetor cleaner, and engine degreaser; all purpose silicone spray-lubricant and motor oil; floor mats for vehicles; retail store services featuring automobile parts and accessories


<u>Mark</u>	<u>Registration Number</u>	<u>Goods/Services</u>
AUTOZONE & Design 	3,281,636	Automotive fluids, namely gas treatment, oil treatment, power steering fluid, antifreeze, and brake fluid; windshield washing fluid, brake cleaner, carburetor cleaner, and engine degreaser; all purpose silicone spray-lubricant and motor oil; floor mats for vehicles
AUTOZONE.COM	2,449,353	On-line electronic services, namely, online ordering services in the field of automotive parts and accessories, and providing information regarding automotive repair maintenance via a global computer network.
GET IN THE ZONE	2,527,429	Retail auto parts store services
CHECKOUTZONE	2,855,756	Retail auto parts store services
OILZONE	3,342,387	Retail auto parts store services
PARTSZONE	2,855,758	Retail auto parts store services
BATTERYZONE	2,855,757	Retail auto parts store services
QUIET ZONE	2,015,967	Soundproofing materials for automotive vehicles
TRUCKZONE	3,120,352	Retail auto and truck parts and accessories store services.

Exhibit B

Class 004
Oil, namely, lubricating oil for machines
Multi purpose oil in the nature of lubricating oil for machines
Oil spray, namely lubricating oil for machines
Class 006
Metal bins
Door handles of stainless steel
Metal handles for doors
Door and window knob of metal with lock
Metal safety locks
Heavy duty metal padlocks
Heavy duty metal twist ties
Metal hose clamps
Metal hose clips for holding water hoses in place
Metal ladders
Large metal tool boxes
General purpose metal storage bins
Magnetic storage set comprised of magnetic metal storage trays in different sizes
Aluminum telescopic ladder
Metal tie downs featuring ratchet tightening device
Mobile metal tool boxes
Class 007
Air-operated power tools
Chisels
Drills
Impact wrenches
Ratchet wrenches
Angle grinders
Belt grinders
Belt sanders
Bench grinders
Hammer drills
Rotary hammer drills
Single handed angle grinder
Routers
Two wheel angle grinders
Bits for power drills
Circular saws
Electric hand-held circular saws
Electric circular saw blades
Electric combi power tools
Electric drills that also function as hammer drills
Air compressors
Accessories for air compressors

Air compressor valves
Diamond core drill bits for use with electric core drills
Power drills
Cordless electric drills
Pneumatic hammer drills
Grinding tools for grinding machines
Dust extractor machines for use with power tools
Electric generators
Portable electric power generators
Electric power tools
Chipping hammer
Hole saws for electric drills
Electric power tools
Hot air gun
Jig saws
Jig saw blades
Electric metal cut off saw
Microflame gas cutting torches
Air compressors for paint sprayers
Paint sprayers
Electric power drills planers
Power-operated screwdrivers
Power tools
Electric drills
Angle grinders
Saws
Multi-purpose high pressure washer
Power-operated ratchet wrenches
Power-operated rivet guns
Multipurpose saws
Saw machines
Power saw blades
Lithium-ion cordless power-operated screwdrivers
Power operated screwdrivers
Cut-off wheels for power saws
Cutting discs for power saws
Percussion drill machines in the nature of hammer drills
Percussion drill bits for power hammer drills
Air compressors for use with paint rollers
Welding apparatus
Electric welding machines and accessories attached thereto
Class 008
Hand tools
Mauls
Hex keys
Wrenches
Bolt cutters

Carpentry pull saws
Clamps
Files
Rasps
Planers
Ratchet wrenches
Stainless steel scrapers
Screwdrivers
Socket sets
Wrenches
Ball head wrenches
Bench vises of case steel
Metal bench vises
Bits for hand drills
Cutting knives
Hobby knives
Chisels
Hand-operated cutters
Metal sheet cutters
Gear wrenches
Gear ratchet wrenches
Hand saws
Hack saws
Hammers
Chisels
Hand-operated riveting tools
Hand operated metal cutters
Mitre saw and mitre-box saw
Multi tool
Multi-function hand tools comprised of screwdriver
Multi-function hand tools comprised of knives
Multi-function hand tools comprised of can opener
Multi-function hand tools comprised of file
Multi-function hand tools comprised of file pliers
Multiple socket, namely, hand tool socket sets comprised of various sized sockets
Nylon spring clamps
open-end wrenches
Ring wrenches for use on screws
Gas pipe pliers
Sanitary pliers
Pliers
Electronic pliers
Hand tool pliers for use on electronic equipment
Lock jaw pliers
Plumbers pliers
Pocket knives

Quick ratcheting bar clamp
Ratchet spanners
Ratchet spring clamp
Saws
Screwdriver and bits for use with screwdrivers
Long reach screwdrivers
Set of screwdrivers and sets of pliers
Sledge hammer
Sockets featuring hex keys
Sockets featuring hex bits
Spanners
Tap and die sets comprised of various sizes of taps and dies
T-handle hex keys and t-handled hexlobular keys
Hobby tools
Pliers
Knives
Hand tool kit comprised of pliers, wrenches
Wrenches
Set of pliers, screwdrivers
Mini hand tool set comprised of mini pliers
Hexlobular keys
Hex keys
Wrenches featuring soft grip two component handle
Heavy duty vices
Wire stripper
Vices
Wrecking bars
Hand tool clamp
F-clamps and G-clamps
Class 009
Battery tester
Electrical switches
Digital caliper for measuring
Extension cords
Protective work gloves
Cut proof gloves
Radiator Thermostat
Electric professional soldering gun
Voltage testers
Welding masks
Electric power cord reel
Leather work gloves
Work gloves
Powerboards, namely extension cords
Class 012
Aluminum roll car in the nature of goods handling carts
Class 016

Professional plastic organizer, namely, organizers featuring plastic storage compartments
Personal organizers
Class 017
Sealing rings set, namely, a set comprised of an assortment of various sized rubber O-rings
Silicone-based sealants and adhesives
Silicone-based sealants and adhesives in cartridge form
Class 020
Non-metal bins; non-metal lock boxes
Accessory drawers
Extending work stand in the nature of a work bench
Garage shelving
Aluminum ladder storage rack
Ladder storage rack
Large non-metal tool boxes
Mobile non-metal tool boxes
Plastic mobile tools storage compartments in the nature of tool boxes
Accessories for non-metal storage cases in the nature of cabinets, namely shelving
Hobby storage case, namely, non-metal storage boxes for storing tools for hobbies
Storage system, namely, a storage set comprised of storage shelves and racks
Plastic storage compartments in the nature of boxes
Non-metal utility hooks
Wedges and pads
Work benches
Foldable work stands in the nature of a foldable work bench
Work table featuring an integral backboard
Non-metal work trestles for supporting tables
Tabletop work benches
Class 021
Wire brushes not being machine parts
Plastic buckets
Plastic boxes specially adapted for storing wood screws and machine screws
Small plastic storage containers for household or domestic use
Class 022
Cable ties and straps for fastening and securing objects such as bundles of wire together
Grip test ties
Ropes
Class 027
Rubber standing mat